

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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RICHARD BLACK

Plaintiff,

-v.-

Civil Action No.  
9:07-cv-1194 (GLS/RFT)

L. FARAGO, Psychiatrist, Mid-State  
Correctional Facility; D. SERGIO,  
Nurse Practitioner, Mid-State  
Correctional Facility and M. SACCO,  
Primary Therapist, Mid-State  
Correctional Facility

Defendants.

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APPEARANCES:

OF COUNSEL:

**FOR THE PLAINTIFF:**

RICHARD BLACK  
Plaintiff, *Pro Se*  
06-R-2079  
Southport Correctional Facility  
P.O. Box 2000  
Pine City, New York 14871

**FOR THE DEFENDANTS:**

HON. ANDREW M. CUOMO  
Attorney General for the State of New York  
Counsel for Defendants  
The Capitol  
Albany, New York 12224

SHOSHANAH V. ASNIS  
Assistant Attorney General

GARY L. SHARPE,  
U.S. DISTRICT JUDGE

**ORDER**

The above-captioned matter comes to this court following a Report-Recommendation by Magistrate Judge Randolph F. Treece, duly filed September 25, 2008. Following ten days from the service thereof, the Clerk has sent the file, including any and all objections filed by the parties herein.

No timely objections having been filed. However, plaintiff now seeks to withdraw this action. See *Dkt. No. 33*. The court declines his request. Accordingly, the court having reviewed the Magistrate Judge's Report-Recommendation for clear error, it is hereby

ORDERED, that the Report-Recommendation of Magistrate Judge Randolph F. Treece filed September 25, 2008 is ACCEPTED in its entirety for the reasons state therein, and it is further

ORDERED, that Plaintiff's request to withdraw this action (*Dkt. No. 33*) is DENIED, and it is further

ORDERED, that Defendants' Motion to Dismiss (*Dkt. No. 28*) is GRANTED and this entire action is DISMISSED, and it is further

ORDERED, that in light of the Plaintiff's filing of a Second Amended

Complaint, the Defendants' Motion to Dismiss Plaintiff's First Amended Complaint (Dkt. No. 16) is terminated, and it is further

ORDERED, that the Clerk enter judgment in favor of the defendants against the plaintiff.

IT IS SO ORDERED

Dated: October 30, 2008  
Albany, New York

Gary L. Sharpe  
Gary L. Sharpe  
U.S. District Judge